

KIRBY McINERNEY LLP

825 Third Avenue
New York, NY 10022
212.371.6600
Fax. 212.751.2540
WWW.KMLLP.COM

Of counsel

Roger W. Kirby
Alice McInerney

April 18, 2014

VIA ECF AND EMAIL

The Honorable Andrew L. Carter, Jr.
Thurgood Marshall United States Courthouse
40 Foley Square, Room 435
New York, New York 10007

Re: *In re: North Sea Brent Crude Oil Futures Litig.*, No. 13 MD 02475 (ALC);
McDonnell, et al. v. BP PLC, et al., Case No. 13-cv-7089 (ALC)

Dear Judge Carter:

We represent the Plaintiffs in the above-captioned action. Plaintiffs respectfully request an extension of time to serve Defendant Vitol S.A., which Plaintiffs named as a Defendant in the *McDonnell* action on October 4, 2013. This is Plaintiffs' first request. Vitol S.A. is located in Geneva, Switzerland, and accordingly Plaintiffs have taken steps to serve Vitol S.A., including having the *McDonnell* Complaint and Summons translated into French, pursuant to the 1965 Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters ("Hague Convention").

Courts in this District generally apply a flexible due diligence standard and require that a foreign defendant be served within a reasonable time. *See Burda Media, Inc. v. Blumenberg*, No. 97 Civ.7167, 2004 WL 1110419, *5 (S.D.N.Y. 2004) ("the 120 day time limit of Rule 4(m) is not applicable to service in a foreign country") (citation omitted), *aff'd Burda Media Inc. v. Viertel*, 417 F. 3d 292 (2d Cir. 2005). Here, within weeks of filing the Complaint in the *McDonnell* action on October 4, 2013, Plaintiffs' counsel contacted in-house counsel for an affiliate of Vitol S.A. that is located in the United States, Vitol, Inc., regarding service of the Summons and Complaint on Vitol S.A. The in-house counsel for Vitol, Inc. referred this matter to outside counsel at Skadden, Arps, Slate, Meagher Meagher & Flom LLP in New York. Plaintiffs' counsel and Vitol S.A.'s counsel at Skadden have communicated regarding this litigation and specifically about service under the Hague Convention on Defendant Vitol S.A.¹

Plaintiffs are informed and believe that Hague Convention service of the Summons and Complaint on Vitol S.A. will be completed as early as next week. The Hague Convention does not specify a time frame for service, and Rule 4(m) of the Federal Rules of Civil Procedure exempts service on a foreign defendant from the 120-day requirement to serve a defendant with a summons and complaint after an action is commenced. Accordingly, Plaintiffs request an

¹ Based upon Plaintiffs' counsel's representation that service on Vitol S.A. will be completed very soon in accordance with the Hague Convention, Vitol S.A.'s counsel does not consent but will not contest this request and intends to reserve all rights and arguments regarding the timeliness and sufficiency of service.

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extension of time until on or before May 10, 2014, to effect service on Defendant Vitol S.A. Plaintiffs have not previously requested an extension of time to complete service on Defendant Vitol S.A., and the extension of time requested herein will not interfere with Plaintiffs' intent and ability to file their Consolidated Amended Complaint in this action on April 28, 2014, as required by Your Honor's Scheduling Order dated March 14, 2014.

Respectfully submitted,

/s/ David E. Kovel

David E. Kovel
Lauren Wagner Pederson
KIRBY McINERNEY LLP
825 Third Avenue, 16th Floor
New York, NY 10022
Tel: (212)371-6600
Fax: (212)751-2540
dkovel@kmlp.com
lpederson@kmlp.com

*Interim Lead Counsel for the Brent
Derivative Trader Plaintiffs*

Cc: Counsel of Record (via electronic filing)